

## TEXT OF PROPOSED RULEMAKING

### Title 8. INDUSTRIAL RELATIONS

#### Division 1. DEPARTMENT OF INDUSTRIAL RELATIONS

#### Chapter 2. CALIFORNIA APPRENTICESHIP COUNCIL

#### Subchapter 1. APPRENTICESHIP

#### Article 10. REQUIRED APPRENTICES ON PUBLIC WORKS CONTRACT

##### **§230.1. Employment of Apprentices on Public Works.**

(a) Contractors, as defined in Section 228 to include general, prime, specialty or subcontractor, shall employ registered apprentice(s), as defined by Labor Code Section 3077, during the performance of a public work project in accordance with the required ~~one~~<sup>4</sup> hour of work performed by an apprentice for every five hours of labor performed by a journeyman, unless covered by one of the exemptions enumerated in Labor Code Section 1777.5 or this subchapter. Unless an exemption has been granted, the contractor shall employ apprentices for the number of hours computed above before the end of the contract. Contractors who are not already employing sufficient registered apprentices (as defined by Labor Code Section 3077) to comply with the one to five job site ratio required by Labor Code Section 1777.5~~approved to train by an applicable joint apprenticeship committee or unilateral committee~~ must request the dispatch of required apprentices from one of the ~~applicable~~ Apprenticeship Committees providing training in the applicable craft or trade and whose geographic area of operation includes the site of the public work by giving the committee actual notice of at least ~~72~~<sup>48</sup> hours (excluding Saturdays, Sundays and holidays) before the date on which one or more apprentices are required. If the Apprenticeship Committee from which apprentice dispatch(es) are requested does not dispatch

apprentices as requested, the contractor must request apprentice dispatch(es) from another committee providing training in the applicable craft or trade in the geographic area of the site of the public work, and must request apprentice dispatch(es) from each such committee, in turn, until the contractor has requested apprentice dispatches from each such committee in the geographic area. However, if a non-signatory contractor declines to abide by and comply with the terms of a local committee's standards, the Apprenticeship Committee shall not be required to dispatch apprentices to such contractor. Conversely, if in response to a written request ~~noan~~ Apprenticeship Committee ~~does not~~ dispatch es, or agrees to dispatch in the future any apprentice to a contractor who has agreed to employ and train apprentices in accordance with either the Apprenticeship Committee's Standards or these regulations within 72 hours of such request (excluding Saturdays, Sundays and holidays) the contractor shall not be considered in violation of this section as a result of failure to employ apprentices for the remainder of the project, provided that the contractor made the request in enough time to meet the above-stated ratio. If an Apprenticeship Committee dispatches fewer apprentices than the contractor requested, the contractor shall be considered in compliance if the contractor employs those apprentices who are dispatched, provided that, where there is more than one Apprenticeship Committee able and willing to unconditionally dispatch apprentices, a contractor ~~who is not a participant in an apprenticeship program~~ has requested dispatch from ~~all at least two~~ committees: providing training in the applicable craft or trade whose geographic area of operation include the site of

the public work. Nothing in this section shall affect the right of a Contractor who participates in and employs registered apprentices from programs approved under Labor Code Section 3075 outside the geographic area of the public work from employing said apprentice(s) on the site of the public work in order to meet the ratio requirement of Labor Code Section 1777.5.

(b) Apprentices employed on public works shall be paid the applicable apprentice prevailing per diem wage rate, available from DAS, and derived from the Director's survey of wages paid on public works in the geographic area of the craft or trade. DAS shall refer complaints alleging any contractor's failure to pay the proper apprentice prevailing wage rate on a public works project to the Division of Labor Standards Enforcement for investigation and appropriate action.

(c) Apprentices employed on public works can only be assigned to perform work of the craft or trade to which the apprentice is registered. Work of the craft or trade consists of job duties normally assigned to journeymen in the apprenticeable occupation. Where an employer employs apprentices under the rules and regulations of the California Apprenticeship Council, as set forth in Labor Code Section 1777.5(c)(2), apprentices employed on public works must at all times work with or under the direct supervision of journeyman/men. The on-the-job training shall be in accordance with the apprenticeship standards and apprenticeship agreement under which the apprentice is training, provided that a

contractor shall not be subject to any financial or administrative obligations to a trust fund or employee benefit plan unless the contractor has so agreed.

(d) Contractors who have bid or have been awarded public works projects prior to January 1, 20080 and contractors who have bid prior to January 1, 20080 and have been awarded public works projects after January 1, 20080 shall comply with the provisions of Labor Code Section 1777.5 in effect prior to January 1, 20080, as implemented by California Apprenticeship Council regulations in effect prior to January 1, 20080.

Note: Authority cited: Section 1777.7, Labor Code. Reference: Section 1777.5, Labor Code.